



WorkSafe

Our Reference: WS0357/2009 A1044579

14 May 2009

Mr Paul Coghlan
Associate Commissioner
Performance Benchmarking Australian Business Regulation
Productivity Commission
PO Box 1428
CANBERRA CITY ACT 2601

Dear Mr Coghlan

PERFORMANCE BENCHMARKING OF OCCUPATIONAL HEALTH AND SAFETY

Western Australia's Department of Commerce has considered the issues paper titled *Performance Benchmarking of Australian Business Regulation: Occupational Health and Safety* (the Issues Paper) released by the Productivity Commission in April 2009. The Department of Commerce, through its WorkSafe Division, is the Government agency responsible for Western Australia's *Occupational Safety and Health Act 1984* (the WA OSH Act).

It is noted that the Issues Paper indicates the Productivity Commission's intention to engage with stakeholders (including government agencies) and its interest in receiving submissions from business. Consistent with the interest in submissions from business, generally the issues in the Issues Paper are framed for a response from business. There are however, some issues where it is appropriate for WorkSafe to pass comment as follows:

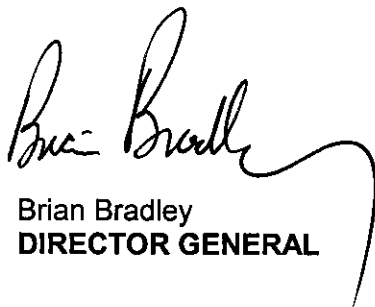
- Issue 3 Other regulation – Apart from the WA OSH Act, in Western Australia there is also legislation which regulates safety and health in specific industries. The Productivity Commission may like to consider the *Rail Safety Act 1998* (please note that this Act is to be replaced with national model rail safety legislation by December 2009 as required by the Council of Australian Governments), the *Mines Safety and Inspection Act 1994* and the *Dangerous Goods Safety Act 2004*. Please also note that there are a number of Commonwealth regulators including Comcare, the Australian Maritime Safety Authority and the National Offshore Petroleum Safety Authority who have a role in regulating occupational safety and health in Western Australian workplaces.
- Issue 4 OHS Indicators – The Workplace Relations Ministers' Council provides the Comparative Performance Monitoring Report. This report gives a comparison of occupational health and safety and workers' compensation schemes in Australia and New Zealand.

Section 61 of the WA OSH Act requires that the WA OSH Act is reviewed every five years. Consistent with this requirement, in 2006 Mr Richard Hooker provided the Final Report for his 'Review of the *Occupational Safety and Health Act 1984*'. The next review of the WA OSH Act is due in 2010. Mr Hooker's report provides a balance of views about the WA OSH and its reference in the Issues Paper is noted. It is also appropriate to acknowledge that the report included 25 recommendations across a broad spectrum of issues and concluded:

"The Inquiry is cautiously satisfied with the *overall* state of occupational safety and health legislation and administration in Western Australia. As will be elaborated upon, the legislation, whilst continuing the Robens-inspired tradition and principles, effects what is, on balance, a legitimate and appropriate mix of general duty offence-creating provisions and prescriptive regulatory material. Although, at times, that legislative mix does give rise to significant regulatory burdens for some workplace participants, there is in the Inquiry's view no preferable alternative in light of the complex and dynamic nature of OSH in the contemporary business world. The basic tripartite structure of the Commission, whilst open to potential variation, continues to serve the administration of OSH in this State most satisfactorily" (para 1.35).

Please do not hesitate to contact me if you require any further information.

Yours sincerely



Brian Bradley
DIRECTOR GENERAL